

## Message Text

CONFIDENTIAL

PAGE 01 KATHMA 05668 281155Z  
ACTION NEA-10

INFO OCT-01 ISO-00 CIAE-00 DODE-00 PM-05 H-01 INR-07  
L-03 NSAE-00 NSC-05 PA-01 PRS-01 SP-02 SS-15  
USIA-06 HA-05 /062 W  
-----021922 281436Z /40  
R 281030Z DEC 77  
FM AMEMBASSY KATHMANDU  
TO SECSTATE WASHDC 0549  
INFO AMEMBASSY NEW DELHI

C O N F I D E N T I A L KATHMANDU 5668

E.O. 11652: GDS  
TAGS: PINT, SHUM, NP  
SUBJECT: LEGALITY OF B. P. KOIRALA'S ARREST CHALLENGED IN COURT

REF: (AJA KATHMANDU 4873, (B) KATHMANDU 4891, (C) KATHMANDU 2344,  
(D) KATHMANDU 4413

1. LOCAL JUDICIAL SOURCE HAS CONFIRMED TO EMBASSY  
ACCURACY OF REPORTS CARRIED IN SEVERAL INDIAN PAPERS TO  
EFFECT THAT NEPALESE SUPREME COURT HAS RECEIVED HABEAS  
CORPUS PETITION ON BEHALF OF B. P. KOIRALA CHARGING  
ILLEGALITY OF HIS TE-ARREST ON HIS RETURN TO  
KATHMANDU NOV 8. BASIS OF PETITION FILED BY KORALA'S  
NIECE, MS. SAILEJA ACHARYA, IS THAT CONDITIONS OF HIS  
RELEASE FOR MEDICALMLREATMENT IN JUNE HAVE NOT YET BEEN  
FULFILLED. SPECIFICALLY, PETITION ARGUES THAT IN  
ADDITION TO PALACE ACTION ON B. P.'S RELEASE (REF C)  
THERE WAS FORMAL COURT ACTION AS WELL. LATTER REPORTEDLY  
GGRDERED B. P. TO TURN HIMSELF BACK INTO COURT FOR  
FURTHER JUDICIAL ACTION ON CHARGES AGAINST HIM  
AFTER HIS "COMPLETE RECUPERATION." PETITION ARGUES  
THAT THESE CONDITIONS VIOLATED ON TWO COUNTS:  
FIRST, THAT B.P. WAS NOT GIVEN OPPORTUNITY TO  
PRESENT HIMSELF TO COURT, BUT WAS TAKEN INTO  
CONFIDENTIAL

CONFIDENTIAL

PAGE 02 KATHMA 05668 281155Z

CUSTODY ON ARRIVAL IN COUNTRY; AND SECOND, THAT HIS  
MEDICAL TREATMENT HAS NOT YET BEEN COMPLETED, WITH SECOND  
OPERATION DUE IN 1978. PETITION ALSO NOTES THAT  
B.P.'S AMERICAN DOCTOR (DR. NORMAN BRACHFELD)  
RECENTLY CAME TO KATHMANDU AND WAS DENIED ACCESS  
TO HIS PATIENT.

2. ONE MIGHT HAVE EXPECTED SUPREME COURT TO VIEW PETITION AS UNWANTED HOT POTATOE. BUT QUITE THE CONTRARY, COURT APPEARS HAVE SEIZED UPON IT AS MEANS OF DEMONSTRATING DEGREE OF JUDICIAL INDEPENDENCE. COURT HAS ISSUED SHOW CAUSE NOTICES TO THREE OFFICIALS INVOLVED (ZONAL COMMISSIONER, JUDGE CONSTITUTING B.P.' SPECIAL COURT, AND DISTRICT SUPERINTENDENT OF POLICE) ORDERING THEM TO FILE WRITTEN AFFIDAVITS IN RESPONSE TO PETTFON NO LATER THAN DEC 29.

3. COMMENT: EVEN ACCEPTING DEGREE OF JUDICIAL INDEPENDENCE WITHIN NEPALESE SYSTEM, IT IS UNLIKELY THAT THIS WILL BE CARRIED TO POINT THAT COURTS WILL ACT WITHOUT REGARD TO PALACE VIEWS IN FORMAL RULING ON MS. ACHARYA'S PETITION. ADDITIONAL FACTOR TO TAKE INTO ACCOUNT HOWEVER, ARE REPORTS OF B.P.'S DECLINING HEALTH. HMG IS GENUINELY CONCERNED ABOUT B.P.' HEALTH AND MAY BE PREPARED ACCEPT THIS TEMPORARY JUDICIAL SOLUTIHR TO CASE, RESERVING OF COURSE ITS CONTINUING RIGHT TRY B.P. ON CHARGES PENDING AGAIUT HIM WHEN--AND IF--HE FULLY RECOVERS FROM HIS MEDICAL DIFFICULTIES.  
HECK

CONFIDENTIAL

NNN

## Message Attributes

**Automatic Decaptioning:** X  
**Capture Date:** 01-Jan-1994 12:00:00 am  
**Channel Indicators:** n/a  
**Current Classification:** UNCLASSIFIED  
**Concepts:** ARRESTS, COURT PROCEEDINGS, POLITICAL LEADERS  
**Control Number:** n/a  
**Copy:** SINGLE  
**Sent Date:** 28-Dec-1977 12:00:00 am  
**Decaption Date:** 01-Jan-1960 12:00:00 am  
**Decaption Note:**  
**Disposition Action:** RELEASED  
**Disposition Approved on Date:**  
**Disposition Case Number:** n/a  
**Disposition Comment:** 25 YEAR REVIEW  
**Disposition Date:** 22 May 2009  
**Disposition Event:**  
**Disposition History:** n/a  
**Disposition Reason:**  
**Disposition Remarks:**  
**Document Number:** 1977KATHMA05668  
**Document Source:** CORE  
**Document Unique ID:** 00  
**Drafter:** n/a  
**Enclosure:** n/a  
**Executive Order:** GS  
**Errors:** N/A  
**Expiration:**  
**Film Number:** D770483-0336  
**Format:** TEL  
**From:** KATHMANDU  
**Handling Restrictions:** n/a  
**Image Path:**  
**ISecure:** 1  
**Legacy Key:** link1977/newtext/t19771213/aaaaakac.tel  
**Line Count:** 85  
**Litigation Code IDs:**  
**Litigation Codes:**  
**Litigation History:**  
**Locator:** TEXT ON-LINE, ON MICROFILM  
**Message ID:** 5a005efc-c188-dd11-92da-001cc4696bcc  
**Office:** ACTION NEA  
**Original Classification:** CONFIDENTIAL  
**Original Handling Restrictions:** n/a  
**Original Previous Classification:** n/a  
**Original Previous Handling Restrictions:** n/a  
**Page Count:** 2  
**Previous Channel Indicators:** n/a  
**Previous Classification:** CONFIDENTIAL  
**Previous Handling Restrictions:** n/a  
**Reference:** 77 KATHMANDU 4891, 77 KATHMANDU 2344, 77 KATHMANDU 4413  
**Retention:** 0  
**Review Action:** RELEASED, APPROVED  
**Review Content Flags:**  
**Review Date:** 24-Feb-2005 12:00:00 am  
**Review Event:**  
**Review Exemptions:** n/a  
**Review Media Identifier:**  
**Review Release Date:** n/a  
**Review Release Event:** n/a  
**Review Transfer Date:**  
**Review Withdrawn Fields:** n/a  
**SAS ID:** 122349  
**Secure:** OPEN  
**Status:** NATIVE  
**Subject:** LEGALITY OF B. P. KOIRALA'S ARREST CHALLENGED IN COURT  
**TAGS:** PINT, SHUM, NP  
**To:** STATE  
**Type:** TE  
**vdkgvwkey:** odhc://SAS/SAS.dbo.SAS\_Docs/5a005efc-c188-dd11-92da-001cc4696bcc  
**Review Markings:**  
Margaret P. Grafeld  
Declassified/Released  
US Department of State  
EO Systematic Review  
22 May 2009  
**Markings:** Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 22 May 2009